

HOUSE BILL No. 4747

May 22, 2003, Introduced by Rep. Daniels and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 520m (MCL 750.520m), as amended by 2001 PA
89.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 520m. (1) A person shall provide samples for chemical
2 testing for DNA identification profiling or a determination of
3 the sample's genetic markers and shall provide samples for
4 chemical testing for a determination of his or her secretor
5 status if any of the following apply:

6 (a) The person is found responsible for a violation of
7 section 83, 91, 316, 317, or 321, ~~of the Michigan penal code,~~
8 ~~1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321,~~
9 ~~or a violation or attempted violation of section 349, 520b,~~
10 ~~520c, 520d, 520e, or 520g, of the Michigan penal code, 1931~~

1 ~~PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and~~
2 ~~750.520g,~~ or a violation of section 167(1)(c) or (f) or 335a,
3 ~~of the Michigan penal code, 1931 PA 328, MCL 750.167 and~~
4 ~~750.335a.~~ or a local ordinance substantially corresponding to
5 section 167(1)(c) or (f) or 335a. ~~of the Michigan penal code,~~
6 ~~1931 PA 328, MCL 750.167 and 750.335a.~~

7 (b) The person is convicted of a felony or attempted felony,
8 or any of the following misdemeanors, or local ordinances that
9 are substantially corresponding to the following misdemeanors:

10 (i) A violation of section 145a, ~~of the Michigan penal code,~~
11 ~~1931 PA 328, MCL 750.145a,~~ enticing a child for immoral
12 purposes.

13 (ii) A violation of section 167(1)(c), (f), or (i), ~~of the~~
14 ~~Michigan penal code, 1931 PA 328, MCL 750.167,~~ disorderly person
15 by window peeping, engaging in indecent or obscene conduct in
16 public, or loitering in a house of ill fame or prostitution.

17 (iii) A violation of section 335a, ~~of the Michigan penal~~
18 ~~code, 1931 PA 328, MCL 750.335a,~~ indecent exposure.

19 (iv) A violation of section 451, ~~of the Michigan penal code,~~
20 ~~1931 PA 328, MCL 750.451,~~ first and second prostitution
21 violations.

22 (v) A violation of section 454, ~~of the Michigan penal code,~~
23 ~~1931 PA 328, MCL 750.454,~~ leasing a house for purposes of
24 prostitution.

25 (vi) A violation of section 462, ~~of the Michigan penal code,~~
26 ~~1931 PA 328, MCL 750.462,~~ female under the age of 17 in a house
27 of prostitution.

1 (2) Notwithstanding subsection (1), if at the time the person
2 is convicted of or found responsible for the violation the
3 investigating law enforcement agency or the department of state
4 police already has a sample from the person that meets the
5 requirements of the DNA identification profiling system act, 1990
6 PA 250, MCL 28.171 to 28.176, the person is not required to
7 provide another sample or pay the fee required under subsection
8 (6).

9 (3) The county sheriff or the investigating law enforcement
10 agency shall collect and transmit the samples in the manner
11 required under the DNA identification profiling system act, 1990
12 PA 250, MCL 28.171 to 28.176.

13 (4) An investigating law enforcement agency, prosecuting
14 agency, or court that has in its possession a DNA identification
15 profile obtained from a sample of a person pursuant to
16 subsection (1) shall forward the DNA identification profile to
17 the department of state police at or before the time of the
18 person's sentencing or disposition upon that conviction or
19 finding of responsibility unless the department of state police
20 already has a DNA identification profile of the person.

21 (5) The DNA profiles of DNA samples received under this
22 section shall only be disclosed as follows:

23 (a) To a criminal justice agency for law enforcement
24 identification purposes.

25 (b) In a judicial proceeding as authorized or required by a
26 court.

27 (c) To a defendant in a criminal case if the DNA profile is

1 used in conjunction with a charge against the defendant.

2 (d) For an academic, research, statistical analysis, or
3 protocol developmental purpose only if personal identifications
4 are removed.

5 (6) ~~The~~ **Until October 1, 2003, the** court shall order each
6 person found responsible for or convicted of 1 or more crimes
7 listed in subsection (1) to pay an assessment of \$60.00. The
8 assessment required under this subsection is in addition to any
9 fine, costs, or other assessments imposed by the court.

10 (7) An assessment required under subsection (6) shall be
11 ordered upon the record, and shall be listed separately in the
12 adjudication order, judgment of sentence, or order of probation.

13 (8) After reviewing a verified petition by a person against
14 whom an assessment is imposed **under subsection (6)**, the court may
15 suspend payment of all or part of the assessment if it determines
16 the person is unable to pay the assessment.

17 (9) The court that imposes the assessment prescribed under
18 subsection (6) may retain 10% of all assessments or portions of
19 assessments collected for costs incurred under this section and
20 shall transmit that money to its funding unit. On the last day
21 of each month, the clerk of the court shall transmit the
22 assessments or portions of assessments collected **under this**
23 **section** as follows:

24 (a) Twenty-five percent ~~of the assessments or portions of~~
25 ~~assessments collected under this section~~ to the county sheriff
26 or other investigating law enforcement agency that collected the
27 DNA sample as designated by the court to defray the costs of

1 collecting DNA samples.

2 (b) ~~Sixty five percent of the assessments or portions of~~
3 ~~assessments collected~~ **Until October 1, 2003, 65%** to the
4 department of treasury for the department of state police
5 forensic science division to defray the costs associated with the
6 requirements of DNA profiling and DNA retention prescribed under
7 the DNA identification profiling system act, 1990 PA 250,
8 MCL 28.171 to 28.176.

9 (c) **Beginning October 1, 2003, 65% to the state treasurer for**
10 **deposit in the justice system fund created in section 181 of the**
11 **revised judicature act of 1961, 1961 PA 236, MCL 600.181.**

12 (10) Beginning December 31, 2002, the director of the
13 department of state police shall report by December 31 of each
14 year concerning the rate of DNA sample collection, DNA
15 identification profiling, retention and compilation of DNA
16 identification profiles, and the collection of assessments
17 required under subsection (6) to all of the following:

18 (a) The standing committees of the senate and house of
19 representatives concerned with DNA sample collection and
20 retention.

21 (b) The house of representatives appropriations subcommittee
22 on state police and military affairs.

23 (c) The senate appropriations subcommittee on state police.

24 (11) As used in this section:

25 (a) "DNA identification profile" and "DNA identification
26 profiling" mean those terms as defined in section 2 of the DNA
27 identification profiling system act, 1990 PA 250, MCL 28.172.

1 (b) "Investigating law enforcement agency" means the law
2 enforcement agency responsible for the investigation of the
3 offense for which the person is convicted. Investigating law
4 enforcement agency includes the county sheriff but does not
5 include a probation officer employed by the department of
6 corrections.

7 (c) "Felony" means a violation of a penal law of this state
8 for which the offender may be punished by imprisonment for more
9 than 1 year or an offense expressly designated by law to be a
10 felony.

11 (d) "Sample" means a portion of a person's blood, saliva, or
12 tissue collected from the person.

13 Enacting section 1. This amendatory act takes effect
14 October 1, 2003.